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Before the
Federal Communications Commission
Washington, D.C. 20554

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RM-9096

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Petition of the
Intelligent Transportation Society
of America for Amendment of the
Commission's Rules to Add
Intelligent Transportation Services
(ITS) as a New Mobile Service
With Co-Primary Status in the
5.850-5.925 GHz Band

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To: The Commission

**REPLY COMMENTS
OF RESOUND CORPORATION**

ReSound Corporation ("ReSound"), by its attorneys and pursuant to the Public Notice, DA-97-1106, released May 28, 1997, and the Order, DA 97-1700, released August 8, 1997, hereby submits its reply to the comments filed with respect to the Petition for Rulemaking (the "Petition") filed by the Intelligent Transportation Society of America ("ITSA").

**I. Additional Information Is Necessary
Before Further Action Is Taken on the ITSA Petition**

1. In response to the Petition, several commenters have pointed out that substantial additional information is necessary before further consideration can be given to the ITSA request. For example, the American Radio Relay League, Inc. ("ARRL"), shares ReSound's principal concern about compatibility between existing authorized uses -- including ISM devices and amateur radio -- and proposed co-primary ITS uses in the 5.850-5.925 GHz band. ARRL notes that although the Petition states that ITSA and ARRL are working to address interference issues, in

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fact the companies have held only one meeting and have conducted no testing.^{1/} Of further concern to ARRL are contradictory statements within the Petition related to whether ITS systems will require "interference free" operation.² Consequently, ARRL argues that compatibility testing should be completed before the Commission acts on the Petition.³ Similarly, BellSouth Corporation ("BellSouth"), while generally supportive of the Petition, argues that ITSA should have the burden of showing that no interference to existing users of the band will be caused.⁴

2. The I.V.H.S. Division of Mark IV Industries, Ltd., ("Mark IV"), a manufacturer of devices used by ITS systems in the 902-928 MHz band, comments on the lack of details about ITS in the 5.8 GHz band, including service parameters and projected costs, and notes that the ITSA proposals will require further review by users, manufacturers, and other interested parties.⁵ According to Mark IV, the FCC should issue a Notice of Inquiry to address issues raised by the Petition.

3. ReSound concurs with these commenters. As noted in ReSound's comments, ITSA has not demonstrated how other users of the requested spectrum will be protected. These issues should be addressed before any allocation of

^{1/} Comments of ARRL at p. 5.

² See id. at p. 7, citing Petition at pp. 49-57 and Appendix H. The comments of Minnesota Mining and Manufacturing Company ("3M") highlight the need to address interference issues to afford protection to other users of the band at this time. According to 3M, "the need for interference free communication links for ITS DSRC systems cannot be overstated.... These communication links require protection from uncontrolled secondary interference sources, such as Amateur Radio, Part 15 unlicensed systems and [ISM] systems operated under Part 18 of the FCC rules." Comments of 3M at p. 7. 3M asks the FCC to remove secondary users from the 5.850-5.925 GHz band and promptly allocate the band for ITS. Id. at p. 8.

³ Comments of ARRL at p. 11.

⁴ Comments of BellSouth at pp. 2, 4-5.

⁵ Comments of Mark IV at pp. 1, 3-4.

spectrum is made for the proposed mobile uses, particularly in the 5.850-5.875 GHz band.

**II. The Public Interest Is Served By
Maintaining the Protections
Afforded by Section 15.249**

4. As noted in Resound's Comments in this proceeding, Section 15.249 of the Commission's rules provides more stringent interference protection to ISM devices operating in the 5.850-5.875 GHz "Quiet Band" than for adjacent spectrum. As a result, the 5.850-5.875 GHz band offers unique opportunities for the development of devices that offer substantial public interest benefits, including the low power hearing healthcare products developed by ReSound. In addition to generally encouraging the development of spectrum efficient low power devices, the rules further the Commission's mandate under the Americans with Disabilities Act to reduce barriers to communications faced by persons with disabilities.

5. Because the public interest is served by maintaining the unique protections of the 5.850-5.875 GHz band -- which are available not just for ReSound but for all prospective users of the band -- ReSound opposes the Petition to the extent it seeks an allocation of the 5.850-5.875 GHz band for Dedicated Short Range Communications ("DSRC") systems, and to the extent that such systems operating on adjacent spectrum would create harmful interference to the 5.850-5.875 GHz band. In the absence of any showing of low power operations and continued interference protection by prospective new users of the band, the Commission should not disturb the outcome of its own recent proceeding in which low power operations


in the 5.850-5.875 GHz band were protected.⁶ One possible solution is to exclude this band from ITSA's proposed allocation.⁷

WHEREFORE, the foregoing premises duly considered, ReSound respectfully requests that Commission action on the ITSA Petition be consistent with the foregoing.

Respectfully submitted,

RESOUND CORPORATION

By:


Carl W. Northrop
E. Ashton Johnston

Its Attorneys

PAUL, HASTINGS, JANOFSKY & WALKER LLP
1299 Pennsylvania Avenue, N.W.
10th Floor
Washington, D.C. 20004-2400
(202) 508-9531

September 17, 1997

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⁶ See Amendment of the Commission's Rules to Provide for the Operation of Unlicensed NII Devices in the 5 GHz Frequency Range, ET Docket No. 96-102, Report and Order, FCC 97-5, released January 9, 1997 (barring unlicensed National Information Infrastructure devices from operating in the 5.825 - 5.875 GHz band in order to "avoid potential interference with low power Part 15 hearing aid devices ... in the 5.850-5.875 GHz band.").

⁷ Commenters question whether the 75 MHz requested by ITSA is consistent with the needs of ITS systems. See comments of ARRL at p. 8; Comments of BellSouth at p. 4. ARRL also notes that the Petition fails to state whether alternatives to the 5.850-5.925 GHz band (such as the millimeter wave bands) have been adequately explored. Comments of ARRL at p. 8. ReSound takes no position on this issue at this time.

CERTIFICATE OF SERVICE

I, Sharon L. Henry, a secretary with the law firm of Paul, Hastings, Janofsky & Walker LLP, hereby certify that I have on this 17th day of September, 1997, caused a true and correct copy of the foregoing Reply Comments of ReSound Corporation to be sent by first-class United States mail, postage prepaid, to the following:

Vann H. Wilber
Director
Vehicle Safety & International Department
American Automobile Manufacturers Association
1401 H Street, N.W.
Suite 900
Washington, D.C. 20005

Christopher D. Imlay
Booth, Freret, Imlay & Tepper, P.C.
5101 Wisconsin Avenue, N.W.
Suite 307
Washington, D.C. 20016

Laura J. Myers
Assistant Director, Technical Services
Larry Strawhorn
Vice President, Engineering
American Trucking Associations
2200 Mill Road
Alexandria, VA 22314

William B. Barfield
Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30309-2641

David G. Frolio
1133 21st Street, N.W.
Washington, D.C. 20036

Robert B. Kelly
Douglas L. Povich
Katherine S. Poole
Kelly & Povich, P.C.
1101 30th Street, N.W.
Suite 300
Washington, D.C. 20007

George Y. Wheeler
Koteen & Naftalin, L.L.P.
1150 Connecticut Avenue
Washington, D.C. 20036

John A. Prendergast
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, N.W.
Suite 300
Washington, D.C. 20037

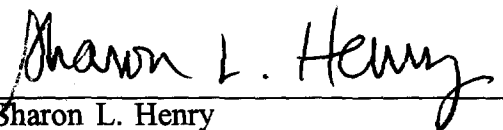
Edmund J. Ring
Electronic Design Specialist
3M
3M Center, Mail Stop 235-3F-08
St. Paul, MN 55144

Samuel F. Gargaro, Director
Minnesota Department of Transportation
Office of Electronic Communications
395 John Ireland Boulevard
St. Paul, MN 55103

David C. Jatlow
Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, D.C. 20037

Nancy E. McFadden
General Counsel
Christine M. Johnson
Director, ITS Joint Program Office
U.S. Department of Transportation
400 Seventh Street, S.W.
Room 4102 C-30
Washington, D.C. 20590

Arthur Firstenberg
President
Cellular Phone Taskforce
P.O. Box 100404
Vanderveer Station
Brooklyn, N.Y. 11210


Sharon L. Henry